Response to the Ofcom Consultation: Protecting People from Illegal Harms Online

About the ODDA:

The Online Dating & Discovery Association is the industry association recognised internationally as the voice of the online dating and social discovery sector. Members of the ODDA, which are all dating & social discovery services, coalesce around a set of standards which we believe make the sector a healthy place for both businesses and consumers. We work together as an organisation to share best practice; develop dialogues with stakeholders; influence policy, legislation, and regulation; share our messages; and campaign on issues that matter. We also provide support and guidance for consumers on how to date and meet friends online safely and smartly. The ODDA has 13 members, who represent over 300 online dating and social discovery brands.

Overall response:

In the first instance, it was very difficult for the medium and small size businesses to engage with the breadth of the consultation due to the significant documentation. The synopses were very welcome, but utilising only the synopses and webinars does leave the worry for some members that they will have missed out on key points in the full documentation. For ODDA members and the wider dating and discovery sector, the only services able to fully engage with the consultation were those with an in-house legal team and public affairs department and/consultancy.

Service Size and Risk

ODDA Members shared concerns about risk categorisation.

Many ODDA members will be classified as having a risk of more than 2 listed priority harms. However, they are also small services, and they have noted the significant increase in compliance for small, multi-risk services. We would propose the threshold for being classified as a small, multi-risk service increased from at least 2, to at least 5 medium or high risk priority illegal harms. Avoiding a one size fits all approach, maintaining flexibility and a proportionate approach based on the nature and size of services will be vital.

One ODDA member is a single person business, as this is a particular concern for compliance and the requirement of administrative work which could make the service no longer tenable.

Governance and Accountability

Similarly to the previous point, there are a significant number of compliance requirements for small services if they are classed as multi-risk. Some of these include:
- A named individual being accountable for compliance.
- Written statements of responsibilities for senior members of staff
- Writing a code of conduct for staff on illegal harms

In the context of a small business, some of these requirements begin to feel onerous and take significant time away from running and building a service. If the staff is 1-3 people, the same person will be responsible for all of these areas, alongside every other part of the business.

There is some concern from ODDA members that high levels of governance requirements will have an impact on innovation in the dating and social discovery space, as many new services have extremely small staff and limited capacity. GDPR demonstrated the impact that burdensome governance and regulation can have on the success of small organisations, if not implemented correctly.

Content Moderation

ODDA Members felt the Content Moderation compliance expectations were fair. However, concerns were still expressed about the ability of very small businesses to comply, as well as what the compliance standard would look like.

For instance, setting performance targets for content moderation for a 1-3 person team would look very different than for a large service with a trust and safety department.

User Reporting and Complaints

Some expectations in reporting and complaints were also flagged as concerns. For instance, giving indicative timeframes for considering complaints will be entirely related to the specificity of each complaint and the capacity of the business.

Particular concern was drawn to section 16 of user reporting and complaints - in relation to successful appeals. ODDA members are seeking clarification on their ability to ban accounts. Often, accounts are banned on dating services to keep the community safe, but it may be difficult for the trust and safety team to pinpoint an illegal harm that has occurred; rather the behaviour of the profile is related to known behaviour by bad actors. ODDA Members are concerned about these bans withstanding an appeal.

The example given by the member is below:
> *An obvious example is where you have a report of an incident which happens off the site and the victim is credible, but you have no evidence and nothing to investigate, because the harm happened away from the platform. The safest thing to do is deny access to the risk user, but the fairest thing to do is continue to allow them access until you accumulate sufficient evidence to objectively justify a ban.*

Clarity on situations such as this would be greatly appreciated.

The cost of compliance

There is also a concern about the cost of compliance with the regime for small businesses. Again, GDPR demonstrated the cost of compliance as having an impact

Engagement and collaboration

To develop realistic and effective best practices and guidelines, collaboration between Ofcom and industry is paramount. ODDA strongly recommends an iterative process allowing for continuous improvement, considering evolving technologies and online risks, is crucial for the development of a solid and workable regulatory framework. We look forward to ongoing collaboration to address these challenges and build a safer online environment.